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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES - GENERAL

Case No.	CV 10-1297 PA	Date	February 24, 2010
Title	Daniel David Dydzak v. Joann M. Remke, et al.		

Present: The Honorable	PERCY ANDERSON, UNITED STATES DISTRICT JUDGE		
Paul Songco	Not Reported	N/A	
Deputy Clerk	Court Reporter	Tape No.	
Attorneys Present for Plaintiffs:		Attorneys Present for Defendants:	

Proceedings: IN CHAMBERS – ORDER TO SHOW CAUSE

On February 23, 2010 the Court issued an Order to Show Cause why this case should not be dismissed based on the doctrines of judicial immunity and res judicata. The Court hereby discharges the February 23, 2010 Order to Show Cause and issues the following Order to Show Cause:

Before the Court is a Complaint filed by pro se plaintiff Daniel David Dydzak (“Plaintiff”) against the State of California, the State Bar of California, the Board of Governors of the State Bar of California, the State Bar Court, several individual judges of the State Bar Court, several individual members of the Review Department of the State Bar Court, various employees of the State Bar of California, and two State Bar attorneys (collectively “the State Bar Defendants”). Also named as defendants are United States Magistrate Judge Alicia G. Rosenberg and United States District Judges Virginia A. Phillips, R. Gary Klausner, Margaret M. Morrow, George H. Wu, and Audrey B. Collins (collectively “District Judges”).

According to the Complaint, on August 5, 2008 one of the defendant State Bar Court judges, Donald Miles, issued a decision recommending that Plaintiff be disbarred and placing him on inactive status. Plaintiff filed petitions for review, as well as various motions to disqualify Judge Miles and members of the Review Department of the State Bar Court, all of which were denied. Based on these events, Plaintiff filed the action Daniel D. Dydzak v. State of California, et al., No. CV 08-7765 VAP (AGR) (“Dydzak I”), on November 25, 2008, asserting a single cause of action under 42 U.S.C. § 1983 against all but four of the State Bar Defendants. The matter was assigned to Judge Phillips and Magistrate Judge Rosenberg. On February 4, 2009 Magistrate Judge Rosenberg issued a report and recommendation recommending that Judge Phillips dismiss the complaint. Judge Phillips adopted this report and recommendation and entered judgment on February 26, 2009. Plaintiff’s claims for non-monetary relief were dismissed without prejudice based on Younger abstention, and his claims for monetary relief were dismissed with prejudice.

Plaintiff subsequently moved to disqualify Judge Phillips and Magistrate Judge Rosenberg, and this motion was denied by Judge Klausner. Plaintiff then made a motion to disqualify Judge Klausner, which was denied by Judge Morrow. Plaintiff made a motion to “reopen” the dismissed case, which

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was denied by Judge Phillips. Plaintiff then made another motion to disqualify Judge Phillips and Magistrate Judge Rosenberg, which was denied by Judge Morrow. Plaintiff then made a motion to disqualify Judge Morrow, which was denied by Judge Wu. Plaintiff then appealed the judgment and all orders and rulings in Dydzak I to the Ninth Circuit on August 17, 2009. Because Plaintiff's appeal of the judgment was not timely, the Ninth Circuit limited the scope of the appeal to orders entered on or after July 16, 2009. On November 18, 2009 the Ninth Circuit summarily affirmed the two orders which were entered on or after July 16, 2009 – the denial of the motion to disqualify Judge Morrow and the denial of the second motion to disqualify Judge Phillips and Magistrate Judge Rosenberg. On January 25, 2010 the Ninth Circuit denied Plaintiff's motion to disqualify Judge Raymond C. Fisher, one of the judges who denied Plaintiff's Ninth Circuit appeal.

Plaintiff lodged a complaint on February 4, 2010 against the State Bar Defendants and the District Judges involved in Dydzak I. Plaintiff requested that he be allowed to proceed in forma pauperis. Magistrate Judge Rosenberg recommended that this request be denied, and her recommendation was adopted by Judge Collins. Plaintiff then paid the filing fee and filed the instant Complaint, which also includes a claim against Judge Collins.

The Complaint brings a single cause of action against all defendants under 42 U.S.C. § 1983. It appears that the District Judges are immune under the doctrine of judicial immunity. See, e.g., Mireles v. Waco, 502 U.S. 9, 9–10, 112 S. Ct. 286, 288, 116 L. Ed. 2d 9 (1991); In re Thomas, 508 F.3d 1225, 1227 (9th Cir. 2007), cert. denied, 128 S. Ct. 1654, 170 L. Ed. 2d 362 (2008).

Accordingly, Plaintiff is ordered to show cause in writing, no later than March 11, 2010, why the claims against the District Judges should not be dismissed based on the doctrine of judicial immunity. Failure to comply with this Order may result in the imposition of sanctions, including dismissal of the Complaint. The Court stays all proceedings in this case until the Order to Show Cause is resolved.

IT IS SO ORDERED.

_____: _____
